

Dealmakers Q&A: Sheppard Mullin's Lucantonio Salvi

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Lucantonio N. Salvi is the co-managing partner of Sheppard Mullin Richter & Hampton LLP's Washington, D.C., office and a partner in the corporate practice group. Salvi is also the co-chairman of the firm's international practice committee and the Aerospace & Defense M&A task force. He practices in the areas of corporate law, corporate finance, securities law, and mergers and acquisitions.

Salvi represents companies, investment banks, and private equity firms in corporate and transactional matters, including mergers and acquisitions, joint ventures, securities offerings and financings. He has developed extensive expertise in acquisition and financing transactions on behalf of private equity firms and other leveraged buyout sponsors, as well as firms in aerospace, defense, health care, communications, luxury goods, candy and retail industries. Salvi has represented both public and private sector clients in the United States and abroad, with a practice specialization that includes cross-border transactions (particularly involving Italian and other European companies). He divides his time between Europe and the U.S.



Lucantonio Salvi

As a participant in Law360's Q&A series with dealmaking movers and shakers, Lucantonio Salvi shared his perspective on five questions:

Q: What's the most challenging deal you've worked on, and why?

A: The most challenging deal that I have worked on was the sale of the PCS business by our client International Rectifier Inc. (NYSE: IRF) to Vishay Intertechnology Inc. (NYSE: VSH) in 2007. The transaction involved the disparate sale of various parts of the existing PCS business of International Rectifier through a combination of stock and asset transfers covering eight jurisdictions globally (including significant operations in China, India, Italy, Germany and the United States). The deal also required complex negotiations associated with ongoing transition services (including employment leasing agreements) and cross-licensing arrangements involving highly technical aspects of the business. However, the reason that this deal was the most challenging for me was that cross-cultural divisions (including U.S. and Israeli backgrounds) and very different business approaches between the buyer and seller during the course of the transaction created a very divisive, suspicious and cynical atmosphere, such that the business parties refused to speak to each other at various junctures and certainly toward

the end of the deal.

In order to get to the deal done, only the two corporate partners on each side of the deal (the counsel for the buyer and me) were talking to each other, and to finalize the deal, we had to present a final “take it or leave” offer on the table and literally walk away from the table. Ironically, we closed the deal over Easter weekend. Two years after the deal closed, my client was sued for fraud by the buyer in connection with the transaction, which led to another series of difficult negotiations on both sides to finally settle and resolve all claims on both sides. Go figure!

Q: What aspects of regulation affecting your practice are in need of reform, and why?

A: A large part of my practice focuses on representing government contractors in aerospace and defense deals (in both domestic and cross-border transactions). In my view, there are at least three areas of regulation that are in need of reform:

First, reductions in defense budget appropriations by the U.S. government have not always been reflected in the government contracts with government contractors. Said differently, the government in many instances still requires contractors to provide changes to services and products as part of the scope of the contract, despite and regardless of budgetary constraints. This in turn has forced contractors in too many cases to proceed with the requested changes without reimbursement until the contractors are forced to litigate the issue with the government to conclusion. This obviously is neither fair nor an attractive or preferred route for contractors — who are effectively being squeezed by the government to do their bidding. These rules are in need of reform.

Second, under current contracting rules with the U.S. government, contractors are often requested to cede their intellectual property rights to the U.S. government as part of the work that they perform for the government. Very often, in competition and auction scenarios, the government makes a contractor’s willingness to cede its IP rights a heavily weighted evaluation factor in the auction process. This in turn reduces competition and innovation and often is to the detriment of the contractor’s businesses (particularly with today’s world of technology-driven advances and protected intellectual property rights). It also limits the government’s ability to get the best products and services because eligible competitors refuse to incur these risks and compete for the business. These rules are in need of reform.

Third, I also believe that the harmonization of conflict-of-interest rules across U.S. jurisdictions (and particularly between the U.S. and non-U.S. jurisdictions) is in crucial need of reform. The current rules often leave clients and lawyers scratching their heads and traversing a slalom course of sometimes conflicting regulations that, frankly, make little or no sense in a modern world characterized by rapid advancements in technology, client sophistication and access to information. While the rules understandably are intended to protect the unwary small client, they often make little sense in a world of sophisticated clients and large law firms.

Q: What upcoming trends or under-the-radar areas of deal activity do you anticipate, and why?

A: I anticipate the following trends or “under-the-radar” areas of activities in my legal practice:

1. Middle-market aerospace and defense M&A deal flow will increase significantly over the course of the next year, and the demand for regulatory experts (e.g., privacy, gov con, cyber, IP) will increase commensurately. Consolidation in the industry is being driven by budget cuts mandated by the Department of Defense and the U.S. government in major programs, and as a result, players in the

industry (including both strategic companies and financial sponsors) are reorganizing and consolidating their business to take advantage of these changes. Of these, the hottest sub-markets will include cybersecurity, intelligence and UAV (unmanned aerial vehicle) deals. Debt is cheap, buyers have cash to deploy and consolidation through accretive acquisition is once again an attractive option for players.

2. Competition for middle-market deals among law firms will continue to increase as clients continue to become more budget-conscious and sophisticated in negotiating rates (following on the trends already existing in Europe and elsewhere outside the United States). Fixed-fee deals, capped-fee deals and alternative fee arrangements will continue to replace traditional hourly fee arrangements for M&A deals. This trend is part of an ongoing evolution that was expedited by the 2008 recession, but I believe that the most successful firms and practices over the next year will be the ones that are able to remain flexible and compellingly partner with their clients for the long term.

Q: What advice would you give an aspiring dealmaker?

A: I would tell an aspiring dealmaker to, first and foremost, be the best technical lawyer you can be. Learn the rules and stay on top of the trends. Read the contracts, and then reread them. Do not cut corners. Do not overlawyer deals to show how smart you are. Stay on top of the latest legal trends and become an expert in the industry(ies) you want to focus on. Clients want to hire the best in their space, but they also want to like you. Be thorough but also practical and commercial to get the deal done. And most importantly, be responsive and always, always, always communicate with your client.

Q: Outside your firm, name a dealmaker who has impressed you, and tell us why.

A: A dealmaker who has impressed me tremendously over the years is Eric (“Rick”) Bernthal, the former office managing partner of Latham & Watkins in Washington, D.C., who recently retired to become chair of the board of directors of The Humane Society. In my opinion, Rick embodies the qualities a lawyer strives to attain throughout their career. While he is technically brilliant as a deal lawyer, he is also a great communicator, a skilled negotiator, a reasonable and fair adversary and a charismatic leader. Even more importantly, Rick is personable, honest and — while working as hard as any other lawyer — he has been able to balance his work commitments with a dedication and vocation to family and charitable causes. He has also been a foster father to deserving homeless children for many years and has kept a fantastic sense of humor and perspective on life. If only we could all do that!

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